IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.MC.No. 2989 of 2007()

CMP.4682/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

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PETITIONER:

ASOKAN, S/O. KRISHNAN,
KIZHAKKEVILA VEEDU, HARIJAN COLONY,
CHEMMARUTHY VILLAGE, CHIRAYINKEEZHU TALUK.

BY ADV. SRI.B.VINOD
SRI.N.K.SHYJU

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, VARKALA, THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2989 Of 2007

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Dated this the 27th day of September, 2007

ORDER

A vehicle belonging to the petitioner, which was allegedly involved in the violation of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, has been ordered to be released to the petitioner subject to conditions. The petitioner has come to this Court aggrieved by the first condition imposed by the learned Magistrate. The condition is that the petitioner must deposit an amount of Rs.10,000/-. Further condition imposed is that the petitioner must execute a bond with sureties. The petitioner confines the challenge in this petition to condition No.1.

2. What is the grievance of the petitioner? I am unable to agree that the learned Magistrate lacks jurisdictional competence to impose the said condition. Rs.25,000/- is the maximum of fine that can be imposed. The learned Magistrate has chosen to impose a condition of deposit of Rs.10,000/- only.

3. The learned counsel for the petitioner submits that the District Collector may impose penalty again on the petitioner and in that event the condition to remit Rs.10,000/- which the petitioner is obliged to deposit as per the impugned condition, may become

excessive. The petitioner shall be liable to pay such amounts as may be directed by the District Collector also. I am satisfied that appropriate directions can be imposed to allay the apprehension of the petitioner on this aspect. I direct that if the petitioner produces material before the learned Magistrate to show that he has paid the amount which are liable to be paid as per order of the District Collector, the learned Magistrate shall thereupon release the deposited amount of Rs.10,000/- which the petitioner is obliged to deposit as per condition No.1.

Hence, this Crl.M.C. is allowed in part to the above extent.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE